

HOUSE BILL REPORT

HB 2379

As Passed Legislature

Title: An act relating to nonprobate assets under will.

Brief Description: Disposing of nonprobate assets under will.

Sponsors: By Representatives Lantz, Serben and Rodne.

Brief History:

Committee Activity:

Judiciary: 1/10/06 [DP].

Floor Activity:

Passed House: 1/25/06, 98-0.

Passed Senate: 3/2/06, 47-0.

Passed Legislature.

Brief Summary of Bill

- Specifies how nonprobate assets are treated under a will when a person has revoked the beneficiary under certain circumstances.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Kirby, Serben, Springer and Wood.

Staff: Trudes Tango (786-7384).

Background:

Nonprobate assets are rights and interests that, upon the person's death, pass to a named beneficiary under a written instrument other than the person's will. Nonprobate assets include things like joint bank accounts with right of survivorship and individual retirement accounts. Generally, the person names the beneficiary in a document creating the nonprobate asset.

Even if a beneficiary is named in an instrument related to the nonprobate asset, the owner of the asset can later change the beneficiary in his or her will without having to change the original instrument. In that case, the will controls regardless of the prior designation.

If the person later changes the beneficiary again after the date of the will, then the will no longer controls. If the person later revokes that new beneficiary, the prior will does not

control. The statute does not specify how the nonprobate asset is treated under those circumstances when the latest beneficiary is revoked and there is no other designation.

When disposing of nonprobate assets, the financial institution or other third party may rely on the beneficiary designated in the instrument creating the nonprobate asset unless the financial institution or third party has actual knowledge of the existence of a claim by a beneficiary under a will.

Summary of Bill:

Where there has been a beneficiary designated in a will that is later revoked by a new designation, which is also later revoked, the nonprobate asset is treated as any other general asset of the owner's estate, absent some other provision controlling the disposition of the asset.

The executor of the estate may rely on information provided to him or her by the financial institution when determining who is entitled to the asset.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: People often want to change the beneficiaries of their nonprobate assets, like joint bank accounts, but they may be too ill to go to each financial institution to make the changes. The statute allows the person to make new beneficiary designations in a will. If the person later changes the beneficiary and then revokes that latest change, the question is raised about what to do with that asset. The old designation in the will shouldn't control since that was earlier revoked. The bill provides that the asset be treated as a general asset and goes to whoever gets the residue of the person's estate under the will.

Testimony Against: None.

Persons Testifying: Al Falk, Washington State Bar Association.

Persons Signed In To Testify But Not Testifying: None.